

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANNY F. ATTERBURY,
Plaintiff,

No. C 04-4413 MHP (pr)

ORDER OF DISMISSAL

v.

DAVE GRAZIANI; et al.,
Defendants.

Plaintiff filed a notice of abandonment for this action and Case No. C 05-1274 MHP, indicating his desire to dismiss both actions with the intent to "perhaps" refile them later after his release from custody. The court construes the document to be a request for a voluntary dismissal and GRANTS it. See Fed. R. Civ. P. 41(a). (Docket # 73.)

This action is DISMISSED without prejudice to plaintiff filing a new action. Plaintiff is cautioned that the dismissal without prejudice does not affect any statute of limitations problems he may have or develop, i.e., any time limits for the filing of an action remain in place and are unaffected by the dismissal of this action. Although the court now permits the voluntary dismissal, this is not an explicit or implicit finding that the defendants have engaged in the conduct alleged by plaintiff in his notice of abandonment.

The clerk shall terminate all pending motions and close the file.

IT IS SO ORDERED.

Dated: September 27, 2006


Marilyn Hall Patel
United States District Judge